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Capital and Capitalistic Organization

Concentration and Control: A Solution of the Trust Problem in the United States. By CHARLES R. VAN HISE. (New York: The Macmillan Company. 1912. $2.00.)

In this readable volume of modest dimensions and hopeful spirit, President Van Hise has furnished to the general reader as well as to the student of economics an admirable handbook. His painstaking examination and orderly presentation of the facts concerning nearly thirty separate industries, their capital, output, growth, and tendency to combination, are as useful as they are fair. As to the facts of the case, the book deserves a place beside Professor Wyman's admirable compendium of the law. With these two volumes at hand, those who advocate the regulation rather than the destruction of legitimate industrial combinations, will find ready support for their doctrine.

President Van Hise makes out a strong case for regulation not of monopoly but of powerful industrial combinations, which to him seem inevitable. Monopolies are not to be tolerated.

> If a corporation be found to be a monopoly and therefore to be unreasonably in restraint of trade the commission should give the orders as to the modifications of the business which are necessary so that the corporation shall cease to be a monopoly. Such orders might go to the extent of disintegrating the existing organization, if the monopoly be such that the public interests cannot be adequately protected without such action.

He suggests that no corporation should be permitted to control more than a specific percentage, say from 40 to 60 per cent, of any line of business of the country, that rule to apply to the

corporation not only as a whole but to each of the lines of business which may be covered by it. This in substance is the contention of Mr. Bryan which was effectively challenged by Governor Hughes in his Youngstown speech in 1908. It does not seem as philosophically reasonable as the test proposed by Professor Clark, who says:

> The key to the situation is the position of the consumers rather than that of the producers. Has every consumer a choice of efficient and independent producers to buy from? If so, there is no monopoly even if one combination should control three-quarters of the output.

But, whatever view be taken, President Van Hise is no friend of monopoly. His policy of governmental regulation is to be applied to combinations free or already purged of monopolistic qualities.

He sets out at much length the wastes of competition and the advantages of combination, to which he might have added at page 16, as subdivision (i), the very important proposition that the combined capital constitutes a safeguard against insolvencies and consequent panics; disasters which were frequent and familiar in the period of many small and warring factories.

Combinations he regards inevitable and in many ways desirable. Prohibitions for more than twenty years in state and union alike have failed to preserve competition in price, or what he considers quite as important, competition in quality or in service. Therefore he would resort to regulation by administrative commission, preferably federal. His declaration to this effect was written in the spring of 1912 at a time when, to quote Professor Clark, "the need of such a body is probably the one thing on which the various plans now before the people are most generally agreed." With the progress of the recent presidential canvass, difference of view was developed and the favor originally shown towards regulation by governmental commission was maintained principally by Colonel Roosevelt. It was discountenanced by Governor Wilson, and by his adviser, Mr. Brandeis. In debate with the last-named gentleman on November 1, upon the subject Regulation of Competition versus Regulation of Monopoly, President Van Hise adhered to the position taken in this volume which may be summarized best in his own words:

> Competition should remain free in all respects, in regard to price, quality and service. The inefficiency which frequently goes with monopoly and other evils in the same connection give adequate ground for breaking up all monopolies. The movement for concentration and

coöperation in business is a world-wide tendency in this twentieth century. To attempt to overcome it by restrictive legislation and acts of the court is futile. No one will advocate returning to the condition of very numerous small manufacturers. We must have that degree of concentration which will give the greatest efficiency.

This then is the core of his argument. Efficiency! No monopoly, for that limits efficiency and injures the public. Freedom for combination and coöperation, without monopoly, but under governmental control to observe and to prevent any developing tendency toward unfair practices or public injury. For such work the courts are not equipped and therefore it should be carried on by an administrative commission.

Upon the question of remedial legislation four points are presented as essential to any new legislation: (1) a declaration that by restraining trade to such a degree as to control the market a business by that fact becomes of public interest; (2) a definition of reasonable restraint of trade in such manner as to permit cooperation; (3) a declaration that any restraint of trade is unreasonable that does not permit free competition; and (4) a prohibition of unfair practices, such as are enumerated and indicated on pages 225-226. Seven other points are presented as calling for consideration and possible adoption: (1) requirement of publicity; (2) price regulation; (3) conservation of natural resources; (4) conduct of business in accordance with good social conditions; (5) payment of fair wages; (6) if advisable, *sed dubitante*, the limitation of issues of stocks and bonds; and (7) the delimitation of the powers of the state and the nation. Some points of control suggested by others are stated (pp. 266-268) but without argument, approval, or disapproval.

The entire discussion is instructive and such as may be welcomed by those of any previous disposition. Its tone and temper fully justify the confidence generally reposed in the ability and impartiality of President Van Hise. In view of the presidential discussion, a second edition of the work, somewhat more precise in statement, and dealing more fully with objections would be of value. Before the adoption of the plan for administrative regulation of industrial combinations, it is probable that there will be opportunity for ample and exhaustive discussion.

Some errors though unimportant may be noticed. It is true, as stated on page 21, that "the General Corporation Act of New York was passed in 1848" and that "similar acts were later passed in other states," but these were only later modifications of

earlier acts. The first and model act of general incorporation was that passed in New York, March 22, 1811. It was followed in many other jurisdictions, notably Massachusetts in 1836, Connecticut and Michigan in 1837, Indiana in 1838, and Great Britain in 1862. It is not strictly accurate to say that "under the common law the stock of one corporation could not be held by another." In England, the home of the common law, a company can buy and hold shares in another company if so provided in its articles of association and such is the rule also in several of the American states. Indeed, almost everywhere a corporation can take such stock in payment of a debt, and often the stock of a corporation whose products it needs for its own legitimate purposes. Such was the law of New York from 1853. The extent of this stockholding power and its limitations cannot be stated summarily.

But the mistakes in this volume are so few and the excellencies are so many and so great, that there is little occasion for criticism and abundant opportunity for cordial acceptance of the work of President Van Hise.

FRANCIS LYNDE STETSON.

Big Business and Government. By CHARLES NORMAN FAY. (New York: Moffat, Yard and Company. 1912. Pp. vi, 201. $1.00.)

Mr. Fay's work, according to his own statements, is intended to give the public in brief and simple words, specific instances showing "how and why business grows big—how far it controls the market and what have been the actual net results to hated Wall Street and our beloved selves of the so-called 'gigantic monopolies' which have so long and well served as stock in trade for politicians and the reformer of other men's misdeeds." In accordance with this purpose, Mr. Fay's book is devoted to incidents illustrating the tactics of the big corporations and the methods which have been followed by the so-called independents in their struggle to maintain themselves.

From personal experience, the author shows how a small company in Northern Michigan outwitted the Powder Trust; how the Chicago Telephone Company established a monopoly in Chicago and after the combination advanced the rates without incurring public hostility; how the Chicago Gas Trust Company was formed, legally dissolved by the Illinois courts, and almost